

Debate

risk, time, and altruism, which would be undiminished by sale. We do not after all regard medicine as any the less a caring profession because doctors are paid. So long as thousands continue to die for want of donor organs we must urgently consider and implement ways of increasing the supply. A market of the sort outlined above is surely one method worthy of active and urgent consideration.

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CONTROVERSY

Is the sale of body parts wrong?

J Savulescu

In late August 2002, a general practitioner (GP) in London, Dr Bhagat Singh Makkar, 62, was struck off the medical register after he was discovered to have bragged to an undercover journalist about being able to obtain a kidney from a live donor in exchange for a fee. He told the journalist, who posed as the son of a patient with renal failure: “No problem, I can fix that for you. Do you want it done here, do you want it done in Germany or do you want it done in India?” The price he quoted included payment to the donor and “my administration costs”. Dr Makkar said he regretted giving “stupid answers” to the journalist. He had been “tired, confused, and upset after a long day dealing with emotional patients”.¹

Deliberation about ethics is often muddled by the personalities involved in a particular issue. Many people are uninspired by Richard Seed or Jack Kevorkian. This contaminates their view about the much broader and important issues such as cloning or euthanasia that Seed and Kevorkian, whom some people might describe as mavericks, have shoved their finger in.

Discussion of the sale of organs is overshadowed by cases of exploitation, murder, and corruption. But there is also a serious ethical issue about whether people should be allowed to sell parts of the body. It applies not only to organs, such as the kidney or parts of the liver, but also to tissues, such as bone marrow, gametes (eggs and sperm) and even genetic material. The usual

argument in favour of allowing the sale of organs is that we need to increase supply. In the US, as few as 15% of people who need kidney transplants ever get a kidney. Cadaveric organs will never satisfy the growing demand for organs. Worldwide, hundreds of thousands, if not millions, die while waiting for a transplant.

Those opposed to a market in organs argue that markets reduce altruistic donation and may also threaten the quality of organ supply. They also claim it will exploit those who are forced by poverty to enter such a market.

Charles Erin and John Harris have proposed an “ethical market” in organs (p 000). The market would be confined to a self governing geopolitical area—for example, the UK or Australia. Vendors could sell into the system, from which their family members would stand a chance of benefiting. Only citizens from that area could sell and receive organs. There would be only one purchaser, an agency like the National Health Service (NHS) or Medicare, which would buy all organs and distribute according to some fair conception of medical priority. There would be no direct sales or purchases, no exploitation of low income countries and their populations.²

But there seems to me to be a much stronger argument in favour of sale of body parts. People have a right to make a decision to sell a body part. If we should be allowed to sell our labour, why not

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sell the means to that labour? If we should be allowed to risk damaging our body for pleasure (by smoking or skiing), why not for money which we will use to realise other goods in life? To ban a market in organs is, paradoxically, to constrain what people can do with their own lives.

Think about a couple with two young children who are contemplating buying a house. They find one for \$150 000, but in a heavily polluted and unsafe area. They could spend another \$50 000 and live in a cleaner, safer area. But they decide to save the money and expose their children to a greater risk in order to pay for private education.

Or consider the diver. He takes on a job as a deep sea diver which pays him an extra \$30 000 than he could otherwise earn. This loading is paid because the job has higher risks to his life and health. He takes the job because he likes holidays in expensive exotic locations.³

In both these cases, people take risks for money. They judge that the benefits for their own lives or their family's outweigh the risks. To prevent them making these decisions is to judge that they are unable to make a decision about what is best for their own lives. It is paternalism in its worst form.

There are two crucial issues. Firstly, we need to ensure that the risk involved is reasonable compared with the benefits it will offer to the person undertaking the risk and society. Secondly, people need to be fully informed and to give their consent freely. By "freely", I mean that they are not in a situation which is itself wrong or

unacceptable. Poverty which is acceptable to a society should not be a circumstance which prevents a person taking on a risk or harm to escape that poverty. It is double injustice to say to a poor person: "You can't have what most other people have and we are not going to let you do what you want to have those things".

When people go to war voluntarily, risking their lives for their country, they are heralded as heroes. If we allow people to die for their country, it seems to me we should allow them to risk death or injury for the chance to improve the quality of their lives or their children's lives or for anything else they value. Money for these people is just a means to realise what they value in life. Whether or not a private market in organs will increase supply or improve its quality, it seems that people have a right to sell them.

AUTHOR'S NOTE

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CONTROVERSY

Commentary. An ethical market in human organs

J Radcliffe Richards

This paper offers a positive suggestion for the management of a market in organs for transplant; and in doing so provides a useful opportunity for clarifying the structure of the Great Organ Sales Debate.

The issue is in constant need of clarification, because it is usually aired as a political question of the For and Against variety: should organ selling be legal or not? This format usually encourages protagonists to collect into an unsorted heap whatever arguments look as though they might have any persuasive force on their side, and because people may be on the same political side for different moral reasons, or have the same moral principles but reach different political conclusions, the political arguments tend to obscure both the real issues and the logical structure of the controversy.

Although attitudes to organ selling seem to have relaxed somewhat since the subject first came to light about a dozen years ago, most professional and political opinion is still against it. But what is the moral basis of this opposition? If you think organ selling should remain illegal, what exactly is your reason? Is it that you regard selling body parts as wrong in itself, irrespective of consequences? Or is it because you think that although it is not wrong in itself, in practice the harms will usually or always outweigh the benefits? Either of these quite different views might support the same political conclusion.

In practice, it is not clear that many opponents of organ selling have ever recognised the distinction. Most of the individual arguments are of a kind that implies the second view, because they are about anticipated harms of allowing the practice: coercion, exploitation, shoddy standards,

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